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3 **So Ordered.**



Patricia C. Williams
Patricia C. Williams
Bankruptcy Judge

4 **Dated: July 23rd, 2013**

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8 UNITED STATES BANKRUPTCY COURT
9 EASTERN DISTRICT OF WASHINGTON

10 In re:

11 LLS AMERICA, LLC,

12 Debtor.

13 _____
14 BRUCE P. KRIEGMAN, solely in
15 his capacity as court-appointed
Chapter 11 Trustee for LLS America,
LLC,

16 Plaintiff,

17 vs.

18 TAMANA HOLDINGS, INC.,

19 _____
20 Defendant.

US District Case No. 12-CV-426-RMP
Bankruptcy No. 09-06194-PCW11

Adv. No. 11-80111-PCW

REPORT AND RECOMMENDATION
RE: PLAINTIFF'S MOTION FOR
DEFAULT JUDGMENT (ECF NO. 41)

21 The Honorable Patricia C. Williams, sitting in the United States Bankruptcy Court
22 for the Eastern District of Washington, hereby files this Report and Recommendation
23 regarding plaintiff's Motion for Default Judgment (ECF No. 41) filed with the
24 bankruptcy court in this adversary proceeding.

25 This Report and Recommendation is made pursuant to the Honorable Rosanna
26 Malouf Peterson's Order Withdrawing the Reference and Referring to Bankruptcy Court
27 for Further Proceedings entered on July 10, 2012 (ECF No. 2) in district court case No.
28 12-CV-00426-RMP.

REPORT AND RECOMMENDATION RE: . . . - Page 1

1 The Recommendation is that plaintiff's Motion for Default Judgment (ECF No.
2 41) be granted and the attached Default Judgment be entered in this adversary
3 proceeding. The basis for this recommendation is that a Clerk's Order of Default was
4 entered by the District Court on October 9, 2012 (ECF No. 13).

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6 /// END OF REPORT AND RECOMMENDATION ///

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

In Re:

LLS AMERICA, LLC,

Debtor.

BRUCE P. KRIEGMAN, solely in his
capacity as court-appointed Chapter 11
Trustee for LLS America LLC,

Plaintiff,

v.

TAMANA HOLDINGS, LTD.,

Defendant.

US District Case No. 12-CV-426-RMP

Bankruptcy No. 09-06194-PCW11

Adversary No. 11-80111-PCW 11

DEFAULT JUDGMENT

This Court having previously entered an Order of Default against Defendant Tamana Holdings, Ltd. (Ct. Rec. 13), and having reviewed the previously filed Memorandum of Authorities (Ct. Rec. 11), and the Affidavits of Curtis Frye and Daniel J. Gibbons in Support of Plaintiff's Motion for Default Judgment filed herewith, and being fully advised in the premises,

DEFAULT JUDGMENT- 1

{S0707215; 1 }



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1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Plaintiff,
2 Bruce P. Kriegman, solely in his capacity as court-appointed Chapter 11 Trustee for LLS
3 America, LLC, shall have a judgment against the Defendant Tamana Holdings, Ltd., as
4 follows:

5 1. Monetary Judgment in the amount of CAD \$601,562.51, pursuant to 11
6 U.S.C. § 550 and RCW 19.40.071;

7 2. Transfers in the amount of CAD \$541,312.51 made to the Defendant
8 within four years prior to the Petition Filing Date are hereby avoided and Plaintiff
9 may take all necessary action to preserve the same, pursuant to 11 U.S.C. §§ 544,
10 550, 551 and 548(a) and (b) and RCW 19.40.041(1) and (2) and RCW 19.40.071;

11 3. Transfers in the amount of CAD \$60,250.00 made to the Defendant
12 more than four years prior to the Petition Filing Date should be avoided and
13 Plaintiff should be authorized to take all necessary action to preserve the same,
14 pursuant to 11 U.S.C. §§ 544, 550 and 551 and RCW 19.40.041(1) and 19.40.071;

15 4. All said transfers to Defendant Tamana Holdings, Ltd. are hereby set
16 aside and Plaintiff shall be entitled to recover the same, or the value thereof, from
17 Defendant Tamana Holdings, Ltd. for the benefit of the estate of LLS America,
18 pursuant to 11 U.S.C. §§ 544, 550 and 551;

19 5. All proofs of claim of the Defendant which have been filed or
20 brought or which may hereafter be filed or brought by, on behalf of, or for the
21 benefit of Defendant Tamana Holdings, Ltd. or its affiliated entities, against the
22 Debtor's estate, in this bankruptcy or related bankruptcy proceedings, are hereby
23 disallowed and subordinated to the monetary judgment granted herein and
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DEFAULT JUDGMENT- 2

{S0707215; 1 }

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Defendant Tamana Holdings, Ltd. shall not be entitled to collect on its proof of claim (Claim No. 748-1) until the monetary judgment is satisfied by Defendant Tmana Holdings, Ltd. in full, pursuant to 11 U.S.C. §§ 502(d), 510(c)(1) and 105(a);

5. A constructive trust is hereby established over the proceeds of all transfers in favor of the Trustee for the benefit of the estate of LLS America; and

6. Plaintiff is hereby awarded costs (i.e. filing fee) in the amount of \$250.00 USD, for a total judgment of CAD \$601,562.51, plus \$250 USD, which shall bear interest equal to the weekly average of one-year constant maturity (nominal) treasury yield as published by the Federal Reserve System.

Entered this ____ day of _____, 2013.

HONORABLE ROSANNA PETERSON

Presented by:
WITHERSPOON • KELLEY

s/ Daniel J. Gibbons
Shelley N. Ripley, WSBA No. 28901
Daniel J. Gibbons, WSBA No. 33036
Attorneys for Bruce Kriegman, Chapter 11 Trustee

DEFAULT JUDGMENT- 3

{S0707215; 1 }



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